IN THE HIGH COURT OF JUDICATURE AT BOMBAY

A.S.

Writ Petition No.57l0 of 2005

Shri Pradip Kisan Shahane ....Petitioner

vs

Shri Kedar V Degaonkar and anr....Respondents

Mr Vijay Killedar for petitioner

Mr.V.S.Deokar with Mr L N Bedekar for respondents

CORAM: S.U.KAMDAR J.

Dated 30.ll.2005

P.C:

l The conduct on the part of the petitioner who is original plaintiff before the trial court is atrocious. The litigation has been postponed on one pretext or the other. The impugned orders which are challenged, are also indicative of such conduct on the part of the petitioner-plaintiff. However, the learned counsel for the petitioner states that a last chance be given to conclude his examination on merits and that his client should not be made to suffer for non-appearence of his counsel as recorded in the impugned order dated 27.7.2005 by the trial court. I am of the opinion that the conduct on the part of the petitioner is such that it is deliberately delaying trial in the trial court. However with a view that the parties should not suffer and the matter should be heard on merits, I grant a last chance to the

petitioner/plaintiff directing the petitioner to conclude his evidence on or before 3l.l2.2005. It is made clear that the trial court will not grant any extension of time and if the witnesses are produced before the trial court, the trial court will ensure that the examination of the plaintiff's witnesses is concluded by that date. The plaintiff is directed to produce his witnesses on or before 5.l2.2005 before the trial court. With the aforesaid directions the impugned order dated 27.7.2005 alone is quashed and set aside and other impugned orders in the present petition are not disturbed. Such an indulgence cannot be without payment of costs. The petitioner- plaintiff is directed to pay cost of Rs. l0,000 to the respondent no.l on or before 5.l2.2005 and on such payment of cost alone the aforesaid order will come into operation. If the petitioner fails to pay the costs on or before 5.l2.2005, writ petition to stand dismissed.

. Petition is disposed of accordingly.